

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

IN RE: DAMIEN SAMUEL FONTES,

Petitioner.

CV-18-39-BU-BMM-JTJ

**ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATIONS**

Petitioner Damien Fontes filed an affidavit of inability to pay fees and other costs (Doc. 1) and a petition for change of name (Doc. 2) on June 13, 2018. Fontes seeks a name change.

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on June 28, 2018. (Doc. 3.) Judge Johnston found that Fontes failed to establish a basis for federal jurisdiction. (Doc. 3 at 2.) Judge Johnston recommended that the Court construe Fontes' Affidavit of Inability to Pay Fees and Other Costs as a motion to proceed in forma pauperis. *Id.* Judge Johnston further recommended that the Court deny the motion for lack of subject matter jurisdiction. No party filed objections.

The Court has reviewed Judge Johnston's Findings and Recommendations

for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The Court finds no clear error in Judge Johnston's Findings and Recommendations and will adopt them in full.

Accordingly, **IT IS ORDERED** that Magistrate Judge Johnston's Findings and Recommendations (Doc. 3) is **ADOPTED IN FULL**. Fontes's Affidavit of Inability to Pay Fees and Other Costs is construed as a motion to proceed in forma pauperis and is **DENIED** for lack of subject matter jurisdiction. The Clerk of Court is directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

The Clerk of Court is further directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith

DATED this 19th day of July, 2018.



Brian Morris
United States District Court Judge